

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the proposed amendment	)	NOTICE OF PUBLIC HEARING
of ARM 2.59.1701 through 2.59.1705 and	)	ON PROPOSED AMENDMENT
2.59.1710 pertaining to the licensing and	)	AND ADOPTION
regulation of mortgage brokers and loan	)	
originators and the proposed adoption of	)	
NEW RULES I through VIII regarding	)	
continuing education, prelicensing	)	
examination, designated managers,	)	
examinations, failure to correct	)	
deficiencies, grounds for the denial of an	)	
application, costs in bringing the	)	
administrative action, and scheme to	)	
defraud or mislead	)	

TO: All Concerned Persons

1. On May 21, 2008, at 11:00 a.m., a public hearing will be held in Room 342 of the Park Avenue Building, 301 S. Park, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on May 14, 2008, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to [cromano@mt.gov](mailto:cromano@mt.gov).

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

2.59.1701 DEFINITIONS For purposes of the Montana Mortgage Broker and Loan Originator Licensing Act and this subchapter, the following definitions apply:

(1) "Another person involved in the transaction" means a licensee, the borrower's employer, the lender, the real estate agent, or other persons or entities allowed by the lender guidelines.

(1) and (2) remain the same, but are renumbered (2) and (3).

(4) "Fraud or dishonesty" means, but is not limited to:

(a) a conviction, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a conviction that involves robbery, illegal gambling, receiving stolen property, counterfeiting, extortion, check, credit card, or computer violations set forth

in criminal laws, deception, fraud, theft, embezzlement, defrauding a creditor, issuing a bad check, deceptive practices, deceptive business practices, misappropriation of funds or property, misrepresentation, omission of material facts, unauthorized use of property, forgery, identity theft, or money laundering.

~~(3)~~ (5) "Fraudulent or dishonest dealings" means, but is not limited to:  
financial misconduct prohibited by statutes governing:

~~(a)~~ mortgage brokers in this and other states; and

~~(b)~~ other segments of the financial services industry, including but not limited to:

~~(i)~~ securities brokerages;

~~(ii)~~ banks and trust companies;

~~(iii)~~ escrow offices;

~~(iv)~~ title insurance companies; or

~~(v)~~ other licensed or chartered financial institutions.

(a) a civil judgment, under the laws, rules, or regulations of any state or the federal government, that relates to fraud or dishonesty; or

(b) a civil judgment that involves deception, fraud, conversion, misappropriation of funds, misrepresentation, omission of material facts, forgery, unauthorized use of money or property, failure to pay taxes, or bad checks.

~~(4)~~ remains the same, but is renumbered ~~(6)~~.

~~(5)~~ (7) "Material change" means:

(a) a change in the physical location of the principal location and/or branch office;

(b) a change in the phone number;

~~(a)~~ and ~~(b)~~ remain the same, but are renumbered ~~(c)~~ and ~~(d)~~.

~~(c)~~ (e) a change in the share ownership of the company ~~that could affect control; or~~ of 10% or more;

~~(d)~~ (f) the acquisition or disposition of another company;:-

(g) any civil action involving fraud or dishonesty has been filed against the licensee;

(h) any criminal charge has been filed against the licensee; or

(i) any change which would cause the department not to issue a license, if it had occurred before licensure.

~~(6)~~ remains the same, but is renumbered ~~(8)~~.

(9) "Restitution" may include, but is not limited to, refunds of any or all the fees paid directly or indirectly by the borrower.

~~(7)~~ remains the same, but is renumbered ~~(10)~~.

~~(8)~~ (11) "Work in a related field" means:

~~(a)~~ through ~~(b)(v)~~ remain the same.

~~(vi)~~ as a residential real estate loan closing agent; or

~~(vii)~~ other work or educational experience as approved by the department.

(vii) as a state or federal regulator that examines compliance of residential mortgages of state or federally chartered financial institutions.

AUTH: 32-9-130, MCA

IMP: 32-9-103, 32-9-109, 32-9-115, 32-9-116, 32-9-117, 32-9-123, 32-9-125,  
32-9-133, MCA

STATEMENT OF REASONABLE NECESSITY: It is reasonably necessary for the division to amend ARM 2.59.1701 in order to amend definitions for terms already defined in the current rules as well as to define new terms used in the amendments which passed as part of Senate Bill 92 during the 2007 Regular Legislative Session as set forth below. In the case of the amendments to the existing rules, the division seeks to address problems and issues that it has encountered in examinations and in administering the Act and the rules by amending several existing definitions as set forth herein. Sections (1) and (9) specifically refer to new language inserted by SB 92. Section (1) defines a term referred to in 32-9-125(4), MCA, relating to trust accounts. Mortgage brokers are required to deposit any money that the mortgage broker receives on behalf of a bona fide third party into the trust account until the money can be paid to the bona fide third party. In this context, the division proposes to define the term "another person involved in the transaction" to refer to the individuals who may pay closing costs on behalf of a borrower. In addition to the persons specified, the lender guidelines establish other individuals who may pay closing costs for the borrower. Since each lender is different in what they will allow, it is not possible to specify who may be allowed to pay closing costs generally. The division chose this approach because it was mandated to define the term by 32-9-125(4), MCA, and the nature of the real estate transaction controls the other persons that are involved.

Section (4) clarifies which types of convictions involving fraud or dishonesty may be taken into consideration in order to deny an application for licensure. The division has seen several instances in which licensees disclosed convictions involving theft, unauthorized use of property, burglary, and bad checks. The division believes the statutory authorization is such that these types of convictions were, in fact, intended to be included within the division's discretion to deny applications for licensure. The division chose this particular approach because the existing rule already defines certain types of convictions included so the division chose to carry on with the same approach.

Section (5) defines the types of adverse civil judgments which will be considered by the division as grounds to deny an application for licensure. The current rule limits the adverse civil judgments which will be considered by the division as grounds to deny an application for licensure to judgments related to financial misconduct in related financial industries. The new definition would broaden the types of financial misconduct to include other types of civil judgments that are fraudulent and dishonest. The division has seen applications in which applicants have civil actions against them for fraud, as well as various judgments for nonpayment of taxes owed. While some of these actions are normal business disputes, some of them are markedly different in that they involve fraud or dishonest dealings. It is the fraud or dishonest dealings that rise to the level of a judgment that the division would look closely at in the licensing process. Of course, any action to deny a license must be accompanied by notice and an opportunity for hearing. The division chose this particular approach because the existing rule already defined certain types of convictions included so the division chose to carry on with the same approach, but broaden the types of civil judgments to address the types of actions the division has seen in licensing matters.

Section (7) is being amended to include changes of which the licensee must notify the division in seeking renewal of a license. The current language of any change that could affect control has resulted in mortgage brokers asking the division what percentage change is a change that could affect control. Since licensees must notify the division of the name and address of any person that owns 10% or more of the mortgage broker entity, the division has always used 10% as a rule of thumb. The division proposes to formalize current practice in this rule. Under the current rules, licensees are required to notify the division of judgment in a criminal or civil action. However, they are not required to certify each year that there are not any new civil actions involving fraud or dishonest dealings filed against the licensee and no criminal charges have been filed against the licensee since the last application for licensure and there has not been a change which would cause the division not to issue a license, if it had occurred before licensure. This has resulted in the division renewing a license and then later finding out that the licensee had an action filed against them that would have precluded renewal of the license, had the division known about it before the license was renewed. So the division proposes to have licensees disclose changes that are relevant to licensure renewals before the renewal takes place. While it is conceivable that the licensee may have to disclose actions that are collection actions in which the defendant has counterclaimed against the licensee, the division will use its discretion to review the matters disclosed by licensees. Matters that are not significant enough to warrant licensing action under the Montana Administrative Procedure Act will not be grounds for any adverse action against the license. In addition, the division will be requiring applicants for renewal to notify the division of their current physical location and telephone number. The division periodically sends notices and communications to licensees and needs current contact information on licensees. The division chose this particular approach because the existing rule defined certain types of convictions included so the division chose to carry on with the same approach.

Section (9) defines restitution as used in 32-9-133, MCA. Restitution means making the borrower whole. In order to provide restitution to borrowers, the division needs to be able to order the refunds of fees paid directly or indirectly by borrowers to mortgage brokers. There are indirect (such as yield spread premiums) as well as direct fees paid to mortgage brokers by borrowers, so these must be included in the rule as well. The division chose this approach because it was mandated to define the term and this definition is needed to address making the borrower whole.

Section (11) broadens the acceptable areas of experience that an applicant may have in order to be licensed as a mortgage broker or loan originator. The division believes the current rule is drafted too narrowly in that it excludes relevant areas of work experience that are suitable training for applicants. The division chose this particular approach because the existing rule defined certain types of acceptable work experience so the division chose to carry on with the same approach but broaden the relevant experience areas. The division chose to delete (8)(b)(vii) because the definition of work in a related field is already broad enough and includes residential mortgage loan experience that qualifies for loan originator licensing. In addition, the division believes that allowing education experience is outside of its authority under 32-9-109, MCA.

2.59.1702 PROOF OF EXPERIENCE (1) Satisfactory proof of experience may include but is not limited to:

- (a) ~~valid~~ copies of W-2 or 1099 tax forms verifying employment; or
- (b) copies of paystubs.
- ~~(b) valid copies of form 1120 corporate tax returns signed by the broker or manager as owner of the business; or~~
- ~~(c) signed letters from a lender on the lender's letterhead verifying that the broker has competently originated loans for the required time period.~~

AUTH: 32-9-130, MCA

IMP: 32-9-108, 32-9-109, MCA

STATEMENT OF REASONABLE NECESSITY: The current version of the rule allows an applicant to submit as proof of experience corporate tax returns signed by the broker and manager of the business as well as letters on lender letterhead verifying that a broker had the requisite experience. The division has received letters on letterhead from lenders that are no longer in business and verification of the data on the letter is impossible. In addition, the division has no method to verify the accuracy of corporate tax returns signed by unknown individuals. In the past, the division has received letters purporting to be from former employers, the veracity of which is completely unverifiable. In order to tighten up the accuracy of proof of experience, the division has chosen to require valid copies of federal tax documents or paystubs. Everyone should have, or have access to, federal tax documents verifying their income from the time that they received the experience in question. However, the division has also chosen to recognize as valid proof of experience copies of paystubs from the time and place in question. The division chose this approach because it allows an applicant a simple method to prove experience but also allows the division a measure of certainty that the person worked at the place and for the time they claim.

2.59.1703 TRANSFER OF LOAN ORIGINATOR OR MORTGAGE BROKER LICENSE (1) Transfer of an individual mortgage broker or loan originator license must be approved by the department. To transfer an individual mortgage broker or loan originator license, the individual mortgage broker or a loan originator shall obtain a relocation application from the department. The completed relocation application must be accompanied by a nonrefundable processing fee of \$50.

(a) remains the same.

(b) If the lapse in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required by 32-9-117, MCA, to qualify for a transfer of the license. The relocation six-month time frame would remain in effect and would be from the date of termination.

(2) If an individual mortgage broker or loan originator is terminated by a mortgage broker, and within six months is re-employed by the same mortgage broker, a request for reinstatement form must be filed with the department. The form ~~will be~~ is available from the department. There ~~will be~~ is a \$10 processing fee for reinstatement. If the break in employment occurs over a renewal period, the individual mortgage broker or loan originator license must be renewed as required

by 32-9-117, MCA, to qualify for reinstatement. The six-month time frame would remain in effect and would be from the date of termination.

AUTH: 32-9-130, MCA

IMP: 32-9-115, 32-9-116, 32-9-117, 32-9-119, MCA

STATEMENT OF REASONABLE NECESSITY: It is reasonably necessary for the division to amend ARM 2.59.1703 in order to clarify the requirements for a mortgage broker to transfer their license. This amendment was authorized by passage of New Section 10 of Senate Bill 92 during the 2007 Regular Legislative Session and is codified as 32-9-119, MCA. The amendment requires mortgage brokers to transfer their licenses as well. The current rule addresses license transfer requirements for loan originators but does not address license transfer requirements for mortgage brokers. The new version of the rule adds mortgage brokers to the existing rule. The division chose this approach because the existing rule addresses license transfer requirements for loan originators and the division believes the same requirements should apply to mortgage brokers. It is anticipated that five mortgage brokers would transfer their license each year. This would generate an additional \$250 of revenue (five individual mortgage brokers x \$50 license transfer fee) for the division each year. The division anticipates that no mortgage broker will need to reinstate their license pursuant to section (2), so there will be no fiscal impact from section (2).

2.59.1704 LICENSE RENEWAL (1) Effective July, 1 2008, ~~the~~ the renewal fees shall be \$50 ~~\$500~~ for mortgage broker entities that are not sole proprietorships, \$300 ~~\$500~~ for individual mortgage brokers and sole proprietors, and \$250 ~~\$400~~ for loan originators. An individual renewing licensure as a mortgage broker and who is also the sole owner of an entity renewing its license shall only be subject to the individual mortgage broker renewal fee. All fees are nonrefundable and must be submitted with the renewal application. The renewal application forms will be sent by the department to each licensed mortgage broker or loan originator in April. The application must be postmarked or received by May 31.

(2) The individual mortgage broker or loan originator application must be completed, signed, and dated by the applicant and may not be signed on behalf of or in lieu of the applicant. The signed and dated page of the application must be submitted in the application package or renewal application package to the department.

(a) For application of a mortgage broker entity that is a sole proprietorship, the owner must complete, sign, and date as the applicant.

(b) For application of a mortgage broker entity that is a partnership, any partner may complete, sign, and date as the applicant.

(c) For application of a mortgage broker entity that is an LLC, or corporation, or incorporation, the person responsible for the application must complete, sign, and date as the applicant.

~~(2) The continuing education year will be from June 1 to May 31.~~

~~(3) No more than six hours of continuing education credits may be carried over to the next licensing year.~~

~~(4)~~ (3) The renewal application must be accompanied by ~~evidence~~ a copy of the certificate of completion provided by the approved education provider that the continuing education requirement has been met and a recent credit report from one of the three recognized credit reporting agencies. They are Experian, Equifax, and TransUnion. The credit report must be dated within 60 days of receipt of renewal application.

~~(5)~~ (4) Mortgage brokers must include evidence of an irrevocable letter of credit or surety bond for each location.

(6) and (7) remain the same, but are renumbered (5) and (6).

~~(8)~~ (7) If the attempt to renew is after June 30, the license is considered expired revoked. Expiration Revocation terminates the right to engage in any residential mortgage broker or loan originator activities. The mortgage broker or loan originator must then apply as a new licensee.

(9) remains the same, but is renumbered (8).

(9) All renewal applications shall certify that the licensee has paid any civil penalties, fines, and restitution amounts imposed against the licensee. Failure to pay a fine, penalty, or judgment assessed against the licensee is sufficient grounds to deny a request for renewal.

(10) If the renewal application or the investigation related to the renewal application discloses additional information that would have been sufficient grounds to deny, suspend, or revoke the license, if it had been known at the time of original licensure, the license shall be denied, suspended, or revoked on that basis.

AUTH: 32-9-130, MCA

IMP: 32-9-115, 32-9-116, 32-9-117, 32-9-118, 32-9-123, MCA

STATEMENT OF REASONABLE NECESSITY: The division is proposing to amend section (1) of this rule to maintain consistent language with 32-9-117, MCA, which also sets forth that initial licensing fees are nonrefundable and must be accompanied by the application for licensure.

The division is proposing to amend the renewal fees under section (1) for mortgage brokers and loan originators to ensure that revenue collected from the mortgage broker and loan originator program is commensurate with the costs associated with their regulation by the division. The renewals fees have not increased since the inception of this licensing in 2004. The cost of regulating mortgage brokers and loan originators has increased and now substantially exceeds the current revenue from the licensing and examination fees. The increased costs are reflected in a career ladder professional program implemented to recruit and retain qualified examiners, professional education and training of the mortgage broker examiners, and increased overhead expenses in the areas of rent, travel, supplies, and communications. The division has recently increased licensing and assessment fees in other regulatory programs to ensure that revenue is commensurate with the specific costs associated with regulating those programs.

The proposed increase in renewal fees would not be effective until July 1, 2008. The first renewal deadline after the effective date of the proposed rules is May 31, 2009. It is impossible for the division to estimate the total number of mortgage broker and loan originator licenses that will be renewed by May 31, 2009.

The division has based this revenue projection on the current number of licensees. Based upon the current number of mortgage broker and loan originator licensees, the division estimates an increase in licensing renewal revenue of \$101,700. There are currently 62 mortgage broker entities that would be subject to the proposed entity fee. The mortgage broker entity renewal fee would be increased from \$50 to \$500. The increase in mortgage broker entity renewal revenue would be \$27,900 (\$450 increase x 62 entity licensees). There are currently 174 mortgage broker individuals, including sole proprietors that would be subject to the proposed renewal fee increase. The mortgage broker individual and sole proprietor renewal fee would be increased from \$300 to \$500. The increase in mortgage broker entity renewal revenue would be \$34,800 (\$200 increase x 174 mortgage broker licensees). There are currently 260 loan originators that would be subject to the proposed renewal fee increase. The loan originator renewal fee would be increased from \$250 to \$400. The increase in loan originator renewal revenue would be \$39,000 (\$150 increase x 260 loan originator licensees).

The division has chosen the amounts that are contained in this rule because they are the same as the initial license application fees in statute. In the case of a mortgage broker who is both an individual licensee and the sole owner of a mortgage broker entity, the division has chosen to charge one \$500 fee for renewal instead of charging two \$500 fees for renewal, because 32-9-117, MCA, provides that an individual who is seeking licensure as a mortgage broker and who is the sole owner of an entity that is seeking licensure as a mortgage broker shall pay a single initial nonrefundable license application fee of \$500. The division has carried that forward in the proposed fees for renewal because the division does not believe it would be fair to charge an individual who is licensed as a mortgage broker individual licensee as well as a mortgage broker entity both renewal fees. However, the division has always charged an entity a separate renewal fee because the entity has a legal existence which is separate from the individual license holder. Entities are charged a separate initial application fee by statute and should be charged a separate renewal fee as well.

New section (2) is being proposed because in the past, the division has received applications, including affidavits, which have been signed by someone other than the applicant. In the case of applications submitted by an out-of-state home office for all their in-state licensees, the person submitting the application may not have any knowledge of the specific questions being asked in the affidavit. The information may or may not be correct since the person filling out the application and signing it is not the applicant. In order to ensure that the division is receiving complete, correct, and accurate information from licensees, the division proposes to require the applicant actually complete and sign the renewal application and return it to the division. The rule is drafted in such a manner that the applicant must complete the application, not have someone else complete the application and have the applicant sign it. The division chose this particular approach to prevent failure to disclose relevant information and to ensure that the person who is making the disclosures is the applicant for renewal.

Sections (2) and (3) have been moved to NEW RULE I titled Continuing Education because they relate to the topic in that rule, not this one. The division in



this rulemaking proposes to separate the renewal rules and continuing education rules into two separate rules, instead of combining them all in one rule.

The division is proposing to amend section (3) in order to clarify that the applicant must provide a certificate of completion from a continuing education provider which has been approved by the division at the time of renewal to prove that the licensee has met the continuing education requirements for the time period. The division seeks to amend section (3) to clarify the period of time in which a credit report is valid in order to meet this license renewal requirement. This amendment will ensure that the information contained within the credit report is up-to-date to the actual period of license renewal. A credit report that is out-of-date may not contain relevant data that occurred after the credit report was issued but before the date of renewal. The division needs current information in order to verify that the renewal application is correct. The division chose this approach because the requirement for a credit report was already in rule, but the division seeks to address the need for the credit report to be current and accurate.

It is reasonably necessary for the division to amend section (4) to ensure consistent language with changes made by Senate Bill 92, which was passed during the 2007 Regular Legislative Session. In particular, 32-9-123, MCA, requires that each branch office location maintain a surety bond or irrevocable letter of credit.

It is reasonably necessary for the division to amend section (7) to ensure consistent language with 32-9-117, MCA, which states that if a licensee fails to submit required information or fees within the prescribed time period, the license is automatically revoked. Therefore the rule is being amended to use the same language as the statute.

In section (9), the division seeks to ensure that applicants have paid civil penalties, fines, and restitution as has been ordered by a judge or hearing examiner in a timely manner and prior to the annual renewal of their licenses. It would be manifestly unjust to allow an applicant who owed restitution to borrowers for prior misdeeds to renew their license without paying the amounts due and owing. In addition, fines and penalties which have been assessed against a licensee in a civil or criminal proceeding should also be paid before they are allowed to renew their license.

In section (10), the division should be allowed to use the results of its investigation to do whatever would have been done in the first instance, if the information had been known to the division. The division does, in fact, see applications where licensees misrepresent information on their initial or subsequent applications. Applicants should not be allowed to profit from misrepresentations to the division.

2.59.1705 LICENSING EXAMINATION AND CONTINUING EDUCATION PROVIDER REQUIREMENTS (1) A licensee ~~or applicant~~ shall receive credit for participation in a continuing education course program if it is presented by a provider approved by the department and the department has approved the continuing education program pursuant to this rule.

(2) To receive approval of a ~~licensing examination or~~ continuing education course, the ~~examination or~~ course provider must file an application with the department, which includes, but is not limited to the following items:

(a) a description of the examination or course provider's experience in teaching courses; course brochures, outlines, schedules, lesson plans, visual presentations, and course description (including a breakdown of time spent on each topic);

(b) remains the same.

(c) a description of each examination or course; and a complete set of curriculum materials. Materials will be retained by the department. Electronic format is acceptable;

(d) company history;

(e) sample course certificate of completion which must include, at a minimum;

(i) company name;

(ii) date of course;

(iii) course title;

(iv) instructor's signature;

(v) licensee's name; and

(vi) licensee's license number;

(f) list of other states in which approval to provide similar education is held;

(g) a satisfactory timing method to properly monitor licensee's attendance and attention for the approved hours of the course; and

(h) a comprehensive test approved by the department, to be taken at the end of the course. The licensee must pass the test with a minimum 75%.

~~(d) all examination or course materials and lesson plans.~~

(3) All instructors must have a minimum of five years of experience working as a mortgage broker, loan originator, mortgage banker, or work in a related field.

(4) The provider must submit, within 15 days of the end of the course, a class roster of licensees who successfully completed the course.

~~(3) (5) Courses and licensing examinations must reflect the activities performed by prospective mortgage brokers and loan originators licensees and must provide prospective mortgage brokers and loan originators licensees with a basic knowledge of and competency in any of the following:~~

~~(a) the following federal regulations:~~

~~(i) Real Estate Settlement Procedures Act;~~

~~(ii) Truth in Lending Act;~~

~~(iii) Equal Credit Opportunity Act;~~

~~(iv) Fair Credit Reporting Act;~~

~~(v) Fair Housing Act;~~

~~(vi) Home Mortgage Disclosure Act;~~

~~(vii) Gramm-Leach-Bliley Act; or~~

~~(viii) the regulations promulgated pursuant to these acts;~~

~~(b) ethics in the mortgage industry;~~

~~(a) basics of home purchase and ownership;~~

~~(b) the mortgage industry, generally;~~

~~(c) loan evaluation and documentation;~~

~~(d) and (e) remain the same, but are renumbered (c) and (d).~~

~~(f) (e) the Montana Residential Mortgage Broker and Loan Originator Licensing Act; and~~

- (f) Administrative Rules of Montana Title 2, chapter 59, subchapter 17; or  
(g) other state and federal laws applicable to the mortgage broker industry.  
~~(4) Appropriate subjects for licensing examinations may include:~~  
~~(a) the Montana Residential Mortgage Broker and Loan Originator Licensing Act;~~  
~~(b) state and federal consumer protection acts;~~  
~~(c) the federal Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, Community Reinvestment Act, and the regulations promulgated pursuant to these acts;~~  
~~(d) trust account and recordkeeping requirements of the Montana Residential Mortgage Broker and Loan Originator Licensing Act;~~  
~~(e) real estate and appraisal law;~~  
~~(f) arithmetical computation common to mortgage lending, including but not limited to:~~  
~~(i) the computation of an annual percentage rate;~~  
~~(ii) finance charges;~~  
~~(iii) amount financed;~~  
~~(iv) payment and amortization;~~  
~~(v) credit evaluation; and~~  
~~(vi) calculating debt-to-income; and~~  
~~(g) ethics in the mortgage industry.~~  
(6) Approved courses may be offered through the Internet or through a classroom setting in which teachers and participants are physically present for the teaching of a course. Correspondence or mail courses will not be accepted.  
~~(5) (7) The provider shall file an application with the department which includes a copy of examinations to be used, if any, in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised courses, examinations, or grading scales to be used shall be submitted to the department for approval at least 30 60 days prior to use. Course materials may be submitted in electronic format. The department will consider examinations and continuing education disseminated by written or electronic means, including by the Internet.~~  
~~(6) remains the same, but is renumbered (8).~~  
~~(7) (9) The department shall provide a list of approved continuing education providers. The list shall indicate whether a provider is approved to present licensing examination and/or continuing education programs.~~  
~~(8) and (9) remain the same, but are renumbered (10) and (11).~~  
~~(10) (12) The department may deny, revoke, suspend, or terminate approval of any provider or individual course upon a finding that:~~  
~~(a) remains the same.~~  
~~(b) during any six-month period, fewer than 50% of the provider's program students taking the examination for the first time achieve a passing score; or~~  
(b) the provider failed to comply with any provision of this rule;  
(c) the provider fails to take reasonable steps to ensure that the licensee spends the allotted hours in the course; or  
~~(c) remains the same, but is renumbered (d).~~

(13) The provider is entitled to a hearing on the denial, suspension, or revocation held under the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA. The provider shall request a hearing within ten days of the date the notice of findings is sent to them. The notice shall be served on the provider at its last known address by certified mail.

(11) and (12) remain the same, but are renumbered (14) and (15).

~~(13)~~ (16) The fee for review of an initial and biennial education provider application is \$100 for the application fee and \$50 for each ~~approved~~ continuing education credit hour requested. All fees are nonrefundable and must be submitted with the application.

~~(14)~~ (17) An education course relative to commercial lending, ~~or commercial loan brokering, or mortgage banking~~ may not be used to satisfy continuing education requirements under this subchapter.

(15) remains the same, but is renumbered (18).

(19) A continuing education course from another state shall satisfy the continuing education requirement if the department has approved the course for continuing education in this state.

AUTH: 32-9-130, MCA

IMP: 32-9-110, 32-9-118, 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: In this proposed amendment, the division is separating the existing rule into two, since the current rule combines both license application and continuing education requirements. The two areas are separate and the division believes, for the sake of clarity, that they should be divided into two separate rules. Therefore throughout this rule, the division is removing prelicense examination terminology and requirements from this rule, and placing them in a separate rule. It is reasonably necessary for the division to amend section (1) in order to ensure that the rule consistently uses the same terms to refer to continuing education. The rest of the rule refers to courses, not programs. So the language is being changed to ensure internal consistency within the rule.

It is reasonably necessary for the division to amend section (2) in order to ensure that the division receives all necessary information and materials pertaining to continuing education providers and their courses. By this amendment, the division is endeavoring to ensure that continuing education is relevant and educational to licensees. The division believes that continuing education should provide licensees with education on the basic laws which licensees need to understand and comply with in order to be competent in the field. Many of the laws in this area are changing rapidly and education is needed to stay current with the requirements of doing business in this area. The division believes an effective test is necessary to ensure that licensees are learning and understanding what is being taught at continuing education courses. The division believes that approval of tests is necessary to ensure the test is a valid measuring tool. In the past the division has reviewed tests which in multiple choice answers have only one answer that is relevant to the general topic while all other answers are patently ludicrous. The division believes that a licensee should have a passing grade of 75% on the exam.

The division is concerned, based on the examination that it conducts, that mortgage brokers and loan originators do not comprehend the training that they are receiving. The division chose this approach in order to encourage mortgage brokers and loan originators to ensure that they understand the continuing education that they are receiving. The division believes a short multiple-choice or true-false test will serve this function.

The division proposes to amend section (3) to ensure that instructors have a minimum level of experience in the area and are able to understand the complexity of the business from a practical standpoint.

The division proposes to amend section (4) to ensure that the division receives the class roster in a timely manner. While the division considered allowing 10 or 20 days to receive class rosters, it settled on 15 days from the end of the class to receive the class roster. The division wants to receive the class roster in a timely manner and fears that if too long a time period is granted, it may result in data being lost or misplaced. In addition, if the class is held near the time of license renewals, the division needs timely notification of who attended the class in order to properly renew the licenses.

The division proposes to amend section (5) in order to clarify which subjects may be included in the continuing education courses. Mortgage brokering is governed by many different sets of law, some state laws which are enforced by various state agencies, including this division, as well as federal laws that are enforced by various federal agencies, and in some cases, this division. Mortgage brokers and loan originators must be able to understand and comply with these laws in order to serve their customers. In the case of some of the federal laws, they are not easy to understand. In conducting examinations, the division has seen numerous instances in which licensees are not properly disclosing the annual percentage rate, finance charges, and fees required to be disclosed by federal law. It appears to the division that some of the licensees do not understand what they are required to disclose and how they are required to disclose these items. The division believes that effective, clear, and understandable education is critical to ensure that licensees are not improperly disclosing terms of the loans they are brokering. Appropriate disclosure helps borrowers to shop for the best loan and also protects licensees from potential state or federal actions for improper disclosure.

The division believes the addition of section (6) is necessary to ensure that the licensees have the opportunity to interact with course instructors and ask questions that they may have on the subject area. For this reason, the division does not believe that mail or correspondence courses provide adequate learning opportunities for licensees.

The division plans to amend section (7) to allow itself 60 days instead of 30 days in which to review course materials. The reason for this is that the examiners who review the course materials also conduct examinations. Typically they travel approximately 50% of the time. So in any given month, they may have examinations scheduled for two weeks out of the month. In the two weeks that the examiners are back in the office, they must complete their examination reports and prepare for the next examinations. A time period of 30 days to review all the course materials is too burdensome on the examiners who have preexisting time commitments to work

around. They need additional time in order to review and approve or disapprove course materials.

The changes to section (9) are to ensure consistency by deleting references to licensing examinations. The rule is being redrafted to address only continuing education.

It is reasonably necessary for the division to amend section (12) in order to provide the division with the ability to deny the approval of providers or individual courses. The amendments to this section also strengthen the requirements for the providers by requiring that they comply with this rule and ensure that the required time is spent by licensees in completing the courses. This requirement is consistent with the provisions of 32-9-118, MCA.

It is reasonably necessary for the division to propose section (13) to ensure that enforcement actions initiated against continuing education providers are conducted in accordance with the Montana Administrative Procedure Act. Since ability of a continuing education provider to do business in this state is conditioned on their approval from the division, they must be provided due process if that approval is denied.

Section (16) is being amended to reflect that the \$50 review fee per credit hour applies to both initial and biennial reviews. In the case of the initial review, the number of credit hours has not yet been approved, but the \$50 review fee applies to each credit hour requested. If the division determines that the course should not be approved for the number of credit hours requested, the fee will not be refunded. The division estimates that annually it denies 24 requested credit hours. This would account for an estimated increase in revenue of \$1,200 (24 denied credit hours x \$50 per credit).

It is reasonably necessary for the division to amend section (17) in order to further clarify which topics are not relevant to satisfy the continuing education requirement. Since Montana's laws address residential mortgages, courses on mortgage banking or underwriting are not relevant and cannot be accepted for continuing education credits.

It is reasonably necessary for the division to propose section (19) to clarify that courses approved by the division may be taken from another state. The division believes that other states' courses can be valuable and educational to mortgage brokers and loan originators. The division does not want to preclude the opportunity to take courses presented by other states, but does want to ensure the courses will be valuable and educational to Montana mortgage brokers and loan originators.

2.59.1710 RECORDS TO BE MAINTAINED (1) and (1)(a) remain the same.

(b) applicant's name, date, name of person taking the application, HUD-1 Settlement Statement, copies of all agreements or contracts with the applicant, including any commitment and lock-in agreements, and all disclosures required by state and federal law signed and dated by the borrower, and where applicable, signed and dated by the individual mortgage broker or loan originator;

(c) through (j) remain the same.

(k) a copy of the policy of title insurance commitment on the property securing the loan; ~~and~~

(l) a copy of the first three pages of the deed of trust and final Truth in Lending disclosure signed by the borrower; and-

(m) copies of all uniform residential loan applications.

(2) A mortgage broker shall maintain at its principal Montana location a trust account records file showing a sequential listing of checks written for each bank account relating to the licensee's business as a mortgage broker, showing at a minimum, check number, the payee, amount, date, and purpose of payment, including identification of the loan to which it relates, if any. The licensee shall reconcile the bank accounts monthly.

(3) A mortgage broker shall maintain a spreadsheet of all residential mortgage applications taken, including all applications that are pending, closed, withdrawn, denied, or cancelled. The spreadsheet shall contain, at a minimum:

(a) the first and last name of the borrower(s);

(b) the age of the borrower(s);

(c) the loan number;

(d) the property address (street, city, state, and zip code);

(e) the phone number of the borrower(s);

(f) the initial application date;

(g) the date the credit report was requested for the borrower(s);

(h) the settlement date;

(i) the date the good-faith estimate was mailed or hand delivered;

(j) the date the Truth in Lending statement was mailed or hand delivered;

(k) the loan amount;

(l) the loan-to-value ratio;

(m) the status of the loan (pending, closed, withdrawn, cancelled, denied);

(n) the total fees received indirectly or directly by the mortgage broker at the closing of the loan;

(o) the total yield spread premium received by the mortgage broker at the closing of the loan; and

(p) the name of the individual mortgage broker or loan originator who originated the loan.

AUTH: 32-9-130, MCA

IMP: 32-9-121, 32-9-124, 32-9-125, MCA

STATEMENT OF REASONABLE NECESSITY: It is reasonably necessary for the division to amend section (1)(b) in order to ensure that the mortgage broker or loan originator signed the related loan documents. The requirement of a signature will clarify which mortgage broker or loan originator has originated and disclosed terms of residential mortgage loans. This helps the division, when it does examinations, to know who was involved in disclosing loan terms and rates to the borrower and on what date such disclosures were made. In doing examinations, the division has found unsigned and undated forms. It is impossible to determine when or if unsigned and undated forms were actually given to borrowers and if so, by whom.

It is reasonably necessary for the division to amend section (2) to provide for consistency with the recordkeeping requirements set forth in 32-9-121, MCA. In the

case of an entity with more than one location, it is not practical or reasonable to require each location to have its own trust account. Rather there should be one central trust account at the principal Montana location for the business that all branches use.

It is reasonably necessary for the division to propose section (3) to specify what information must be included in the residential mortgage loan files and trust account records that are necessary to enable the department to determine whether a licensee is in compliance with the applicable law and rules. The spreadsheet will enable the division to review a summary of residential mortgage activity by a licensee. This will save the examiners time in conducting examinations and result in lower fees for examinations to licensees. The division recognizes that the requirement of a spreadsheet may place an administrative burden on the licensees. However, the division believes that most licensees already have databases that can generate this information relatively easily. The division does not believe it is necessary to have the data in any particular computer program as long as the information listed in the rule is readily retrievable in a spreadsheet that contains the relevant information and is readable by the examiners. The division notes that depository institutions are also required by federal law to maintain this information for examiners. The division also notes that the information required to be on the spreadsheet is information that should be readily available to licensees in proper management of their businesses and is not outside the normal information that a well-managed organization would have readily at hand.

4. The proposed new rules provide as follows:

NEW RULE I CONTINUING EDUCATION (1) "Hour" as used in 32-9-118, MCA, means 50 minutes of instruction.

(2) Beginning June 1, 2008, and annually thereafter, all individual mortgage brokers and loan originators must complete a minimum of one hour of the required 12 hours of continuing education each year reviewing the Montana Mortgage Broker and Loan Originator Licensing Act and Administrative Rules of Montana (ARM) Title 2, chapter 59, subchapter 17. The course must be presented by a provider approved by the department.

(3) The continuing education year is from June 1 to May 31. Failure to complete continuing education requirements by May 31 will result in the revocation of license as of June 30. The mortgage broker or loan originator must then apply as a new applicant.

(4) No more than six hours of continuing education credits may be carried over to the next licensing year. The request for continuing education credits to be carried over must be submitted with the renewal application for which the education credits were taken.

(5) The department may provide continuing education courses at its discretion. The department may charge a fee to the attendees of \$12.50 per hour of continuing education. The fees are nonrefundable.

AUTH: 32-9-130, MCA  
IMP: 32-9-130, MCA



STATEMENT OF REASONABLE NECESSITY: New Rule I(1) defines hour for purposes of continuing education credits. The division initially was going to define hour for purposes of continuing education credits as 60 minutes. However, after some research, it appears that most nationwide continuing education providers define hour as 50 minutes, allowing a ten-minute break per hour. If Montana were to define hour as 60 minutes, it would set up a conflict between the way Montana counts continuing education hours and the way most of the rest of the states count continuing education hours. So the division proposes to define hour for purposes of continuing education credits as 50 minutes in order to be consistent with other states in allowing a ten-minute break per hour.

New Rule I(2) would require at least one credit hour of instruction per year be specifically on Montana law. The division, in conducting examinations, has found vast misunderstanding of the provisions of Montana law on the part of the licensees. This provision is designed to ensure that licensees know Montana-specific law and stay abreast of changes to the Montana laws. The division considered requiring more than one credit hour per year be specific to Montana law, but given the complexity of federal law in this area, the division felt that it did not want to take significant time away from the licensee's studies of federal laws and rules applicable to the mortgage transaction.

New Rule I(3) states what happens if the licensee fails to complete the continuing education credits required by 32-9-118, MCA, within the licensing year. The first sentence is currently in ARM 2.59.1704(2). It is being moved to New Rule I on continuing education because it relates to the topic of the new rule. While the statute sets forth the requirement for continuing education credits every year by license renewal time, it does not specify what happens if the license is not renewed by license renewal time. The new section proposed will state a remedy for failure to comply with 32-9-118, MCA.

The first sentence of New Rule I(4) is being moved from ARM 2.59.1704(3) because it relates to the topic of this new rule. New Rule I(4) is being proposed to make clear that if an applicant wishes to have continuing education credits carry over to the following licensing year, they must submit that request with the renewal application for the year in which the credits were taken. The administrative burden is simply too great on both licensees and the division to try to keep track of carryover credits that were not reported in the year in which they were earned.

Section (5) is proposed because, in order to provide training to licensees, the division must use existing staff within the limits of their existing workloads. The division incurs costs to provide training which include: cost of training space, examiner time in preparing and giving presentations, examiner time lost from examinations while the examiner is training, travel costs to places where the training is given, costs of materials and presentations to licensees, and costs of refreshments. The division currently estimates it would endeavor to offer eight continuing education sessions to licensees per year at a proposed cost of \$12.50 per hour. Each session would last four hours and be attended by 25 licensees. The estimated revenue from the continuing education courses would be \$10,000 (eight continuing education sessions x 25 licensees x four hours x \$12.50 per hour). It is customary for companies to charge for presenting continuing education credits. The

division believes it is appropriate to charge a fee for its continuing education credits as well since it incurs costs in presenting training, but the division set the fee at a relatively low rate in order to encourage licensees to attend.

NEW RULE II PRELICENSING EXAMINATION (1) An applicant seeking an individual mortgage broker's license or a loan originator's license shall submit to a prelicensing examination provided for by the department.

(2) The prelicensing examination will be developed by the department and must be proctored by an agent approved by the department.

(3) The department shall provide a list of approved proctors.

(4) Upon completion of the prelicensing examination, the proctor shall place the examination in an envelope provided by the department, seal the envelope, and sign the back flap of the envelope to ensure confidentiality.

(5) The envelope containing the prelicensing examination shall be mailed to the department within five days.

(6) The applicant must pass the prelicensing examination with a minimum 75%.

(7) If the applicant fails to submit a completed application to the department for a license as an individual mortgage broker or loan originator within one year from the date of the prelicensing examination, the prelicensing examination is expired and the applicant must retest.

(8) The prelicensing examination will be 100 questions for loan originator license and 125 questions for individual mortgage broker license.

(9) The fee for the test is \$100. All fees are nonrefundable and must be submitted with the prelicensing examination request.

AUTH: 32-9-130, MCA

IMP: 32-9-110, MCA

STATEMENT OF REASONABLE NECESSITY: New Rule II sets forth the procedures for a new prelicensing examination process. This rule seeks to ensure that applicants for licensure have a minimum level of knowledge necessary to do business in this area. In conducting examinations, it is clear to the division that some licensees lack the basic skill set that would enable them to run their businesses in a manner consistent with state and federal requirements that apply to mortgages. The division notes that House Resolution 3915 as passed by the United States House of Representatives currently contains prelicensure education and testing requirements for mortgage brokers and loan originators. House Resolution 3915 refers to the Nationwide Mortgage Licensing System and Registry as the entity that will develop and administer prelicensing testing. So at the national level as well as at the state level, regulators are looking at prelicensing examinations as a method to ensure that applicants for licensure know and understand the relevant law and rules in the area of mortgage brokering. The current passing score as set forth in House Resolution 3915 is also 75%. The proposed rule sets forth the requirements for a passing grade on the test and how the test is to be administered and processed.

The new rule on proctoring the examination is designed to ensure that the test is given to the applicant, and returned to the division promptly (within five days) so that it can be graded as quickly as possible.

This new rule is authorized by the division's rulemaking authority under 32-9-130(2), MCA, which allows fees for tests as well as developing or approving tests to be given as a prerequisite for licensure.

The division arrived at the fee in section (9) by estimating that it currently licenses 90 mortgage brokers and loan originators each year that would be subject to the testing fee. The estimated revenue from the testing fee would be \$9,000 (\$100 test fee x 90 licensees). The cost is designed to recover the division's costs in developing, administering, grading, and maintaining the examinations.

NEW RULE III DESIGNATED MANAGERS (1) The designated manager is responsible for assuring that all licensees working for the mortgage broker entity comply with:

- (a) Title 32, chapter 9, part 1, MCA;
- (b) these rules; and
- (c) all applicable federal laws and rules incorporated therein.

(2) The designated manager is responsible for educating all employees on the mortgage broker entity's policies and the need to adhere to them.

AUTH: 32-9-130, MCA

IMP: 32-9-103, 32-9-122, MCA

STATEMENT OF REASONABLE NECESSITY: It is reasonably necessary for the division to propose New Rule III to clarify the responsibilities of the designated manager as it relates to compliance with statute and rules. The division has seen several instances in which the designated manager does not view his or her responsibility as including ensuring compliance with the statutes and the rules and the education of employees on the business's policies. The statute provides the designated manager is responsible for operating the business at the location where the designated manager is employed. The rule intends to clarify that this includes ensuring that the employees know and follow the law, rules, and business policies.

NEW RULE IV EXAMINATIONS (1) Upon receiving a complaint, or at its discretion, the department may examine any office, place of business, or location where records may be found of any licensee or person who may be in violation of Title 32, chapter 9, part 1, MCA, or these rules. The department shall examine for compliance with the applicable state law and all rules and regulations promulgated thereunder.

(2) At the end of an examination, the department shall provide the examinee with an oral and written report.

AUTH: 32-9-130, MCA

IMP: 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: The division is specifically

authorized to conduct examinations of any mortgage broker transaction and residential loan files, trust account records, and other information related to loan transactions of licensees and unlicensed persons. This rule is intended to clarify that the division may examine records wherever they are located. So, for instance, if a mortgage broker is operating from their residence in violation of licensing and bonding requirements, the division may examine the records found at the residence. In the event that an unlicensed person is working out of their home, this rule would allow the division to examine the place where the unlicensed person was working. The division has traditionally provided licensees with oral and written reports of examinations. While this practice has informally existed for numerous years, it does not appear in statute or the rules. The division seeks to formalize current practice by putting it in rule.

NEW RULE V FAILURE TO CORRECT DEFICIENCIES (1) In addition to all other enforcement actions allowed by Montana law, the department may suspend or revoke a license pursuant to Title 2, chapter 4, part 6, MCA, of an entity that does not correct the deficiencies found by the department after an examination and within the time granted by the department.

AUTH: 32-9-130, MCA  
IMP: 32-9-130, 32-9-133, MCA

STATEMENT OF REASONABLE NECESSITY: The division has examined licensees several years in a row to find the same violations of Montana law existing year after year. Each year the division notes the deficiencies and the business says it will correct the deficiencies, but does not do so. The division seeks to clarify that the repeated failure to address violations of Montana law, which have been documented and noted for corrective action after an examination, will result in loss of license. This authority has been provided as part of the amendments to 32-9-130(2)(c), MCA, as part of Senate Bill 92, which was passed during the 2007 Regular Legislative Session. Of course, as with any action against a licensee's license, the licensee is entitled to due process under the Montana Administrative Procedure Act prior to any action affecting his or her license.

NEW RULE VI GROUNDS FOR THE DENIAL OF AN APPLICATION  
(1) Any false statement or omission of fact from the statement of the applicant required by 32-9-115 and 32-9-116, MCA, shall be sufficient grounds to deny a license to an applicant. Any material false statement and any material omission of fact in an application shall be grounds for denial of a license.

AUTH: 32-9-130, MCA  
IMP: 32-9-115, 32-9-116, 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: The division has received applications in which applicants lie about their criminal history and the civil judgments against them. At the present time, there is no penalty for lying on an application. In order to promote true, correct, and complete responses in

applications, the division must have the ability to deny licenses for material false statements and material omissions of fact from applications.

NEW RULE VII COSTS IN BRINGING THE ADMINISTRATIVE ACTION

(1) Costs in bringing the administrative action as used in 32-9-133, MCA, shall include:

- (a) examiner time charges;
- (b) department legal counsel time charges;
- (c) administrative law judge charges;
- (d) court reporter costs;
- (e) transcription fees;
- (f) document preparation fees;
- (g) other hearing costs;
- (h) costs of subpoenaing documents;
- (i) any other cost incurred by the department in bringing the action; and
- (j) travel costs.

AUTH: 32-9-130, MCA

IMP: 32-9-133, MCA

STATEMENT OF REASONABLE NECESSITY: Senate Bill 92, which was passed during the 2007 Regular Legislative Session added section (2) to 32-9-133, MCA. That section allows the division to issue an order requiring restitution to borrowers and reimbursement of the department's cost in bringing the administrative action. The division is defining the costs of bringing the administrative action by identifying the costs associated with administrative hearings.

NEW RULE VIII SCHEME TO DEFRAUD OR MISLEAD (1) For purposes of 32-9-124, MCA, a scheme to defraud or mislead a borrower, a lender, or any other person shall include but is not limited to:

- (a) misstating a borrower's income, assets, obligations, employment status, credit history, and financial resources, or the borrower's equity in the dwelling which secures repayment of the loan to a lender;
- (b) stating to a lender, or more than one lender, that a borrower intends to use more than one property as a primary residence;
- (c) acceptance of any fees, or charge in excess of the fees, that have been or will be remitted to a third party; and
- (d) failing to disburse funds in accordance with any commitment or agreement with the borrower.

AUTH: 32-9-130, MCA

IMP: 32-9-124, MCA

STATEMENT OF REASONABLE NECESSITY: In this new rule, which implements a previously existing section of statute, the division seeks to define some types of schemes to defraud or mislead a borrower, lender, or other person that it considers to be covered by this rule. These are some of the more common

types of behaviors that the division has uncovered in the course of examinations of mortgage brokers in Montana. By enumerating some types of schemes to defraud, the division does not wish to exclude other schemes to defraud, but rather to give some examples of schemes to defraud which the division considers are covered by this rule.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [kosullivan@mt.gov](mailto:kosullivan@mt.gov), and must be received no later than 5:00 p.m., May 27, 2008.

6. Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, has been designated to preside over and conduct the hearing.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/AdministrativeRules.asp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [cromano@mt.gov](mailto:cromano@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Donald Steinbeisser, the primary bill sponsor of SB 92 (2007), was notified on July 27, 2007, by U.S. mail.

By: /s/ Janet R. Kelly  
Janet R. Kelly, Director  
Department of Administration

By: /s/ Denise Pizzini  
Denise Pizzini, Rule Reviewer  
Department of Administration

Certified to the Secretary of State April 14, 2008.